

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

- - - - - X
UNITED STATES OF AMERICA) 23mr168
)
vs.
) Buffalo, New York
MICHAEL RONCONE,) December 18, 2023
)
Defendants. 10:30 a.m.
- - - - - X

DETENTION HEARING
Transcribed from an Electronic Recording Device

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE H. KENNETH SCHROEDER, JR.
UNITED STATES MAGISTRATE JUDGE

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2 P R O C E E D I N G

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5 THE CLERK: United States versus Michael
6 Roncone, docket 23MJ168. This is the date set for a
7 detention hearing Assistant United States Attorneys
8 Joseph Tripi and Casey Chalbeck appearing on behalf of
9 the government; Brian Toweey appearing with the
10 defendant; and United States Probation Officer Brian
11 Mamizuka.

12 MAGISTRATE JUDGE SCHROEDER: Good morning.

13 MR. TRIPI: Good morning.

14 MAGISTRATE JUDGE SCHROEDER: We're here for
15 a detention hearing. Are we ready to proceed?

16 MR. TRIPI: Yes, your Honor.

17 MR. TOWEY: Yes, your Honor.

18 MAGISTRATE JUDGE SCHROEDER: All right.

19 MR. TRIPI: Good morning, your Honor.

20 MAGISTRATE JUDGE SCHROEDER: Good morning.

21 MR. TRIPI: I would like to start by
22 proffering the allegations set forth in the amended
23 complaint filed under case No. 23MJ168. That charges
24 the defendant with possessing firearms while being an
25 unlawful user of controlled substances in violation of

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2 Title 18 U.S.C. Section 922(g)(3). As a result of that
3 charge, there are several bases for detention, although
4 admittedly, the presumption of detention does not apply
5 to that charge. The bases for detention include Title
6 18 U.S.C. Section 3142(f)(1)(E) relating to possession
7 of a firearm; 18 U.S. Code Section 3142(f)(2)(A)
8 regarding flight risk; and 18 U.S.C. Section
9 3142(f)(2)(B) the risk of obstruction of justice. The
10 factors that this Court considers, as the Court well
11 knows, include the nature and circumstances of the
12 offense, including whether the crime involves a firearm
13 which this one does; two, the weight of the evidence;
14 three, the history and characteristics of the offender;
15 and four, the nature and seriousness of the danger the
16 defendant would pose to any person or the community.

17 Your Honor, this case comes before you in a
18 very particularized context. That context is that this
19 defendant is a leader of a local motorcycle club known
20 as the Rare Breed Motorcycle Club. He was the
21 Wellsville chapter president as well as recently moved
22 to the Buffalo chapter vice presidency, and that is only
23 because of recent law enforcement actions. As I'll
24 proffer a little bit later, caused the Rare Breed in on
25 or about November 8th, 2023, so about a month or so

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2 before the recent round of search warrants, they were
3 monitoring law enforcement's investigative activities in
4 Wellsville, and in some of their meeting minutes, they
5 decided to suspend that chapter and move it over to
6 Buffalo. We would argue that was a move designed to
7 obscure some of the criminality that was occurring down
8 in Wellsville.

9 In the context, looking to Wellsville, as
10 this Court also knows, relates to the death of a federal
11 witness that occurred in Wellsville, New York. And this
12 court authorized agents to search various premises
13 connects with both that motorcycle club and as well as
14 Mr. Roncone individually, to search for evidence of that
15 young lady's death. Her name is Crystal Quinn, who was
16 set to be a witness in a federal trial that was
17 scheduled for January 8th, 2024 in case No. 19CR227 and
18 case No. 23CR37. Those cases charge an individual named
19 Peter Gerace and Joseph Bongiovanni in connection with,
20 among other things, narcotics conspiracy, maintaining
21 Pharos Gentlemen's Club as a drug-involved premises, sex
22 trafficking through forced and coerce. There is
23 evidence linking both the Rare Breed to Pharos.

24 For example, when Pharos was searched back
25 in 2019, there was a plaque, an appreciative plaque in

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the office area thanking Pharos for its support for their Blues Cruz event, which is a motorcycle event hosted by the Rare Breed. That type of plaque indicates there is a relationship between Pharos, Gerace and its manager, Ermin, and the Rare Breed motorcycle club. You'll also see, and I'll proffer photographs, as that Pharos investigation progressed, the Rare Breed were holding meetings monitoring that case and making notations about how they should act at Pharos. In other words, there were directives over time, all right? Don't wear your colors to Pharos. Colors mean your motorcycle vests, things that can identify you as Rare Breed. And as time went on, eventually the internal direction was not go to Pharos. Obviously, there was a federal investigation that ramped up that resulted in charges and very public -- very public trial ramp up. So, they were monitoring that closely and those things should concern the Court because it provides a nexus between the Rare Breed and the activities that were occurring at Pharos. And that nexus is also going to be made between the association between the Rare Breed and Outlaws Motorcycle Club, vis-a-vis, John Ermin, and others who are member the of the Outlaws who were employed at Pharos and essentially ran the place along

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2 with Mr. Gerace.

3 So as it relates to what the defendant now
4 knows based upon the search warrant, they now know they
5 where under investigation in connection with the death
6 of a federal witness. That should concern this Court in
7 regards to Mr. Roncone when assessing him as a flight
8 risk. Doesn't get more serious as a potential specter
9 of a charge than death of a federal witness.

10 Obviously a number of devices were seized
11 that belonged to Mr. Roncone in connection with his
12 motorcycle club in three locations that were searched on
13 or about December 7th to include his individual
14 residence, the Buffalo Riverview clubhouse, which I
15 think is about a mile or so from the Outlaws clubhouse,
16 as well as the Rare Breed motorcycle club campus down in
17 Alma, New York, which is technically their Wellsville
18 clubhouse, and it moved there from a location in
19 Wellsville after a fire that broke out. And Mr.
20 Roncone, I believe, would spend a lot of time in
21 Wellsville before that fire that caused him to move to
22 that location.

23 The Rare Breed, by history, started in 1981.
24 I think that was the year that Mr. Roncone was born.
25 His father is the President of Buffalo, who is in the

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2 courtroom watching these proceedings right now. And
3 initially they were joined with another club called
4 Coven in about 2008. The Coven did what is called
5 "patched over" to the Rare Breed. This is information
6 gleaned from their internal records that were obtained
7 during the search authorized by this Court.

8 It's clear that going all the way back to
9 1992, there has been a relationship between the Rare
10 Breed and the Outlaws. There was a public reporting in
11 the Buffalo News resulting from round ups back in 1991
12 that linked the members of the Rare Breed and the
13 Outlaws to cocaine trafficking charges here in Federal
14 Court. The federal prosecutor was Assistant United
15 States attorney Duskawitz at the time. So that
16 provides you decades of nexus between the Rare Breed and
17 the Outlaws.

18 THE COURT: Were there convictions?

19 MR. TRIPI: I didn't take that step in my
20 research. I believe there were. But I can certainly
21 come back and provide you that information, Judge. I
22 was more looking at more through the lens of how long
23 they had been associated and allegations that were
24 similar to what we have here, drug related. And so
25 other things that were authorized in the search warrant

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2 related to racketeering offenses, narcotic offenses,
3 firearm offenses, we found all of those things in the
4 search warrant. In other words, we found evidence of
5 drug activity, we found firearms, we found ammunition,
6 we found evidence of association between the Rare Breed
7 and the Outlaws, Christmas party between the clubs,
8 things of that nature, references in their meetings
9 minutes to attending Outlaws events, Outlaws' functions
10 to include reference to the funeral of Taco, Taco
11 Bowman, the former national president of the Outlaws,
12 who was convicted of federal racketeering, murder, who
13 died in federal prison and had a huge funeral in the
14 Ohio area. This club led by this defendant and his
15 father were making reference to that funeral. And that
16 is consistent with their role locally as a support club,
17 club that is a supporter of the Outlaws. There are
18 T-shirts, they have been captured on video going to
19 Outlaws events with people wearing shirts that say "FU
20 Support Your Local Outlaws." So this club is in lock
21 step with the Outlaws, and that should be very
22 concerning to this Court because of the one percenter
23 nature of the Outlaws.

24 Turning to just the charges in the Complaint
25 for a moment. This defendant was linked to

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2 approximately 29 firearms, cocaine and marijuana. And
3 as of today, we've charged just what was located in the
4 house. But there is information going all the way back
5 to 2019 that when this defendant ascended to a
6 leadership position in the Rare Breed in Wellsville, the
7 amount of cocaine distribution in that chapter increased
8 under his leadership. So it went from a certain level
9 of cocaine to a higher level of cocaine under his
10 leadership. We have information that just within the
11 last month, he was supplying cocaine. So there is
12 certainly more than meets the eye as to the Complaint.
13 And the Bail Reform Act certainly allows this Court to
14 look beyond the four corners of the Complaint, as your
15 Honor well knows.

16 I'm going to use the computer monitor to
17 display some of what we found, your Honor, and I'm going
18 to just kind of go through some photos and I'll kind of
19 make some comments. This is toward the individual
20 before you.

21 Ms. Champoux, if you could pull up
22 Government Exhibit A-1. So the date that the FBI
23 searched Mr. Roncone's residence, he lives there with
24 his father, he was initially not in custody before the
25 search commenced, he was detained for a brief period of

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2 time, agents spoke with him, specifically FBI Special
3 Agent Brian Burns had a discussion with Mr. Roncone,
4 plus a discussion, and let him know the basic nature of
5 what was happening that day and explained to Mr. Roncone
6 asking questions, is there going to be anything in there
7 that is going to hurt us. Are there going to be any
8 drugs. Mr. Roncone told him there was no drugs and that
9 was a lie and a false statement. That should concern
10 this Court when assessing his potential flight risk and
11 his ability to comply with conditions of special
12 release. He lied to a special agent, then it's going to
13 be no skin off his back to lie to this Court and claim
14 that he is going to comply with conditions.

15 During the search, agents found certainly
16 evidence of white powder straws, that is paraphernalia
17 consistent with cocaine usage. And I've already talked
18 to you about information from other sources that talk
19 about him being involved in cocaine distribution.

20 We're going to go to A-2. And just for
21 record purposes, so the record is complete, I'm going to
22 be proffering Government's Exhibits A-1 through 5, B-1
23 through 25, C-1 through 4, D-1 through 8, E-1 through
24 13, F-1, G-1 through 3, H-1 through 5, I-1 through 23,
25 J-1 through 12, K-1 and 2, and L-1, 2, and 3.

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2 So going to A-1 is just a closer view. You
3 can see the white powder believed to be cocaine, however
4 it's not been tested yet, your Honor. In this day and
5 age of Fentanyl, the days of sort of doing field tests
6 when you come across white powder, from an agent
7 perspective, are over. So we are waiting on that. But
8 based on the training and experience of the agents as
9 well as the known history of Mr. Roncone from
10 information provided to law enforcement, we'll believe
11 this will come back as cocaine.

12 Obviously, you've been doing this a long
13 time. If you go to A-3, you know what straws are used
14 for, your Honor, in the context of white powdery
15 substances.

16 If you go to A-4, you see more suspected
17 narcotics in a tied corner. Obviously, Judge, you've
18 sat on the bench a long time. You're familiar with how
19 that type of packaging plays out. A-5 is marijuana in a
20 Ziplock bag. Now that is an amount that could be smoked
21 by someone but it's an amount that also could be
22 distributed by someone. We know an associate of this
23 Defendant's named Howard Hinkle, who is detained, had a
24 massive marijuana grow at Hinkle's residence. He was
25 drying marijuana, had over 100-plant operation, and we

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2 know that Mr. Hinkle had supplied plants to the Rare
3 Breed at their Wellsville property to include under this
4 Defendant's leadership. So no surprise that there was
5 marijuana located in Mr. Roncone's residence. So he
6 said there wasn't going to be drugs, there were drugs in
7 the residence.

8 I'm going to move on now to the B series of
9 photos. We're going to show the guns that were located
10 in his residence. First B-1 is a handgun. Your Honor,
11 he does have a pistol permit, but as this Court well
12 knows, that this requirement is not a defense to being
13 either a user in possession of firearms and it certainly
14 is not a defense to charges that may be brought in the
15 future relating to possession of firearms in furtherance
16 of drug trafficking. As I indicated, I think, as this
17 Court can easily discern, this Complaint is the tip of
18 the iceberg as it relates to this defendant, so this
19 Court should be looking at all aspects of this
20 defendant, not just the four corners of this Complaint.

21 B-2 is another firearm that was in his
22 residence. B-3 depicts some long guns, several. I
23 think one is a shotgun and two rifles or shotgun and a
24 rifle, pardon me. B-4 depicts another rifle. B-5, two
25 more long guns. B-6, multiple shotguns in his

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2 residence, several of them with scopes. B-77 is another
3 rifle. B-88 is another rifle, shotgun maybe. B-9,
4 another rifle. B-10 depicts yet another. B-11 yet
5 another. B-12, another long gun. B-13, we can rotate
6 that so it's easier for the Court to view. Positioned
7 in the house, a lot of these firearms. Some were in the
8 cases, but some were positioned around the house where
9 there is ready access to them, your Honor. B-14,
10 multiple rifles. And this is in a safe that also had
11 ammunition. And a portion of the safe, I think, was
12 also depicted in the Complaint on page 5 where there was
13 also cocaine, suspected cocaine paraphernalia. B-15,
14 yet another long gun with a scope. B-16, yet another
15 one. B-17, another long gun. B-18. B-19. B-20.
16 B-21. B-22, we get into some views of the ammunition
17 for these guns. B-23, we see various firearm parts.
18 B-24, we're focusing in on the serial number there of
19 this particular gun. There is going to be an analysis
20 done. There is a preliminary assessment that there has
21 been some tampering with the serial number of that gun,
22 but it's going to be sent for further expert analysis
23 regarding that. And B-25 shows more rifles in a case.

24 I would note that in or about 2020,
25 Wellsville Police Department provided information that

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2 they had arrested an individual who was in their area
3 who was manufacturing firearms, and it was a
4 multi-agency effort. And they had found what has been
5 described to the FBI as a ledger. And they assessed
6 that the ledger were individuals to whom this person who
7 they arrested was selling firearms to. And they recall
8 Mr. Roncone's name as being one of the people in that
9 ledger.

10 And I will tell you, from three-plus years
11 ago, I've not been able to track down the ledger, but
12 that is the information we have from the Wellsville
13 Police Department at that point in time.

14 I'd like to go to the C series.

15 MAGISTRATE JUDGE SCHROEDER: Was that
16 individual arrested?

17 MR. TRIPI: That individual was arrested and
18 prosecuted federally for felon in possession of a
19 firearm and sentenced.

20 THE COURT: But the ledger was never
21 provided?

22 MR. TRIPI: I can't track down the ledger at
23 this point. So you have the Wellsville police saying
24 the ATF took it. And the ATF agent that was involved is
25 now retired, so I'm going to back to other agents who

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2 were not involved trying to track down this ledger.

3 MAGISTRATE JUDGE SCHROEDER: Doesn't ATF
4 keep some kind of log of evidence?

5 MR. TRIPI: We're looking into it. They
6 haven't been able to find. They do, they haven't been
7 able to find a reference to that level. The Wellsville
8 paper has reference to a "notebook," and the State
9 Police were also involved. That is where I'm at right
10 now. Sometimes it's a game of "Go Fish." That is the
11 best I can give you right now, your Honor, whatever
12 weight you want to give it. Certainly not for lack of
13 trying to track it down.

14 C-1, I'm going to take you now to the
15 Buffalo clubhouse, which is about a mile or so, it's a
16 dark photo, but there is a long gun, a rifle on that
17 countertop there. A second rifle in that clubhouse as
18 well. That is C-2. In C-3, this is a rifle that was
19 hidden between mattresses. There was a mattress in the
20 clubhouse. And then C-4 demonstrates that there is
21 ammunition for the firearms in the clubhouse. So you
22 have guns both in his private residence, guns in the
23 Buffalo clubhouse. We'll get to the Wellsville
24 clubhouse that was supposed to be suspended and shut
25 down and there are more firearms there and more firearms

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2 of the type that I think, in a prior proffer, you had
3 made a distinction between the types of firearms.
4 You'll see some of that are more along the AR-15 type as
5 it relates to Wellsville.

6 MAGISTRATE JUDGE SCHROEDER: Up to this
7 point, were any of the firearms that have been depicted
8 in the photographs deemed to be illegal per se, that is,
9 the nature of the firearm itself?

10 MR. TRIPI: With the exception of -- I have
11 to have a couple of caveats. I'll answer you first no,
12 but there are a couple of caveats. There is one firearm
13 with the belief that there was --

14 MAGISTRATE JUDGE SCHROEDER: That is the one
15 with the serial number?

16 MR. TRIPI: The serial number that is going
17 no go for further analysis. As for all of these
18 firearms, they have to be submitted for a couple of
19 things. That hasn't happened because we're dealing with
20 real time they all have to be traced by the ATF.

21 MAGISTRATE JUDGE SCHROEDER: My question is
22 solely limited to whether each firearm per se was
23 illegal. For example, we know statutorily machine guns
24 are illegal.

25 MR. TRIPI: Right. None of those were

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2 machine guns. I have not been informed, as I stand here
3 today, that any of the firearms had, independent of
4 themselves, features that would make them unlawful.
5 The, again, the caveat being traces are being done, each
6 firearm will be submitted for test firing that could go
7 into the NIBIN system to see if they have been used in
8 any shootings. Those things just take time.

9 I'd like to bring you to some non-firearm
10 /non-drug evidence, but things the Court needs to take a
11 look at, I think.

12 So we're going to go to D-1. This is,
13 again, Mr. Roncone's residence. And these are a series
14 of rings they wear on their hands, your Honor. This is
15 not uncommon in the biker world. We all know brass
16 knuckles are unlawful under New York law, but what is
17 not unlawful is wearing rings. But what they do, these
18 rings, I've looked at them in person, and I've decided
19 to show you in the photo, all very heavy, all very
20 bulky. And what happens, they put each one on each
21 finger and it becomes a de facto brass knuckle. Now,
22 like some of the other weapons, I've showed you in other
23 proffers, there is nothing inherently unlawful about any
24 of those rings, but when one puts them on each hand, you
25 have a serious weapon. And I would ask the Court to

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2 infer that for purpose here, when you're looking at
3 those types of rings, one that would fit a thumb and all
4 other fingers of a hand.

5 Looking at D-2, this is a photo that was in
6 his residence. And I'd like to just clue your Honor in,
7 it's a very brief photo. You can see a couple of things
8 in the upper right-hand corner. "Absolutely no cell
9 phone usage," we believe that type of evidence is
10 consistent with what you saw in the Outlaws' clubhouse
11 is a consciousness of guilt that they are involved in
12 criminal activity. The consciousness of guilty, we all
13 know things cell phones are things that can be tapped.
14 We all know cell phones are things that can take
15 pictures. They don't want those types of things inside
16 their clubhouse. They don't want photographs,
17 videotapes being taken by people in their clubhouse.
18 And if a cell phone were used freely in there, one might
19 be able to say, well, law enforcement could put an
20 informant in there with a phone that is going to be
21 taking pictures of real time criminality. So they are
22 very conscious of those types of things. It's very
23 common in all of these motorcycle clubs locally, whether
24 it be the Kingsmen, the Chosen Few, the Rare Breed, and
25 certainly the Outlaws, to have that type of signage on

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2 the walls.

3 Another thing you can see in the top left
4 that there is an ode to the Coven, which is another club
5 that patched over to them. That is how these clubs
6 become more powerful. They acquire other clubs, they
7 have more membership and cover more territory. And that
8 is all because they operate under a system of rank, a
9 system that is quasi paramilitary. They are always
10 gearing up as though they are in or on the verge of some
11 type of war. It's a very bizarre sub-culture, your
12 Honor, but that is the mind-set and that is a dangerous
13 mind-set, and that should concern this Court regarding
14 the dangerousness that this defendant poses as a leader
15 of that type of organization.

16 And I also would like to note, there are
17 individual reference as themselves to pose as an
18 attorney and may well have a law license, but that
19 individual who showed up, that one David Todaro was at
20 one point a member of the Rare Breed and the FBI
21 assesses now that that individual is a full-patched
22 member of the Outlaws, who poses as this defendant's
23 lawyer, I would submit that this was a fraud perpetrated
24 on this Court right in front of it in real time. And
25 that should concern you.

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2 D-3 is just an example of some pictures on
3 the wall that were in the clubhouse or available in the
4 clubhouse shows the commitment that they have. Now,
5 this was a member of the Coven. I told you that is a
6 club that has been patched over to the Rare Breed. You
7 can see in the background, there is another Rare Breed
8 member, it says "RBMC Blues Cruz," that is their big
9 event. That is the event that Pharos, apparently,
10 sponsored or provided services at. We're not sure of
11 the exact things that Pharos and Gerace did to earn a
12 plaque that was featured prominently in the Pharos
13 Gentlemen's Club. You see they have the Blues Cruz and
14 aligned with the Coven, and they are very committed to
15 this life style. That is D-3. D-4 is going to show you
16 more relationship between the Coven and the Rare Breed,
17 they had a patch created that shows the mergers of those
18 two clubs. The Coven has a skull with a hatchet going
19 into the skull and the Rare Breed logo is on the left,
20 which is a skull with the blue hood. I'll take you --
21 and that was in their clubhouse in Buffalo.

22 I'll take you to D-5, just to show you what
23 the vest looks like from the front. This is the
24 Wellsville vest. Sorry, your Honor, one second.

25 We're going to go back to D-4 just for a

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2 moment, your Honor. Something I missed. In the lower
3 left-hand side, you see part of the signs there or part
4 of the documents that say "Support your Local Outlaws,"
5 you can see the back half of it, "Local Outlaws AOA"
6 meaning only Aryans apply or American Outlaws
7 Association.

8 Moving back now to D-5. You can see the
9 vest, the patch on the upper left-hand side of our
10 screen, your Honor, says it stands for "Once a Rare
11 Breed, always a Rare Breed." And I told you that these
12 other -- these other -- these clubs operate very
13 similarly. Just one sort of anecdote, your Honor. I
14 tried a RICO case regarding the Kingsmen, very similar
15 club to the Rare Breed here, their motto was "Live a
16 Kingsman, die a Kingsman, "and that is something when
17 they have somebody leave the club or betray the club,
18 that was, that motto, that dedication to that motto was
19 the motive for the murders in that case.

20 This is a patch. It might just be a patch
21 to you. But this is a motto they live by. So betrayal
22 of these clubs has very grave consequences. He is a
23 leader of this club, so the court needs to assess that
24 very carefully when assessing dangerousness we would
25 submit. On the back, it shows you that they, you know,

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2 their logo "Rare Breed, New York." Now, if you wear
3 that lower rocker for the State of New York, the Rare
4 Breed, by virtue of the Outlaws, dominates in the
5 Buffalo area, would have had to, at some point in their
6 history, consulted with the Outlaws for permission to do
7 that. Other clubs around the country, they have a
8 probationary period. So they go to the Outlaws and say,
9 "We want to start a club and we want to wear patches."
10 The Outlaws, if they agree to it at all, usually start
11 them with a county rocker. So, in other words, until
12 the club proves itself to be worthy, you would say "Erie
13 County" it would say "Rare Breed Erie" or "Rare Breed
14 Allegany" until they prove themselves. And they don't
15 prove themselves by being choir boys or doing toy drives
16 or fundraisers. They prove themselves by not snitching.
17 They prove themselves by their willingness to engage in
18 criminality. That is what, by just looking at the
19 vests, tell motorcycle gang experts and prosecutors who
20 work these cases.

21 Moving on to D-7. This is a Buffalo Rare
22 Breed rocker. Same kind. So this appears to be
23 Roncone's, maybe, father's vest, because you see that
24 lifetime patch now a lifetime member, that signifies
25 someone with even more time in the club. Once a Rare

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2 Breed always a Rare Breed. And then on the left-hand
3 side, you see the patch with the cross and the skull,
4 that is an ode to their prior history as part of the
5 Coven that merger between those two gangs.

6 D-8 is just another photo that shows you the
7 Coven and Rare Breed part of their history. I'm going
8 to go to E-1 now, your Honor.

9 E-1, you know, we took a picture of E-1, and
10 it shows a bunch of poker chips. You know, one of the
11 places that Crystal Quinn was before she died in
12 Wellsville was at a poker game that was attended by Rare
13 Breed associates. So we took a picture of these poker
14 chips. This is a big thing for them. They host these
15 games and they make money through these poker games.
16 This is, again, in the Buffalo clubhouse, to be clear.
17 And E-2 is a poster of somebody talked and you see the
18 signage there that person is sinking in either water or
19 concrete. In other words, somebody talked and they are
20 dying in the water. Again, when you're assessing
21 dangerousness, these are not just words, these are words
22 coupled with the fact that they are now under
23 investigation as part of the death of a federal witness.

24 E-3 shows you their view on firearms and
25 their willingness to use them posted prominently in the

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2 club due to the rising cost of ammunition. I'm no
3 longer able to provide a warning shot. This defendant
4 had 29 guns to include long guns and handguns.

5 E-4 is another ode to the disgusting and
6 racist history of Nazi racism, and I think I'm going to
7 ask my colleague here to explain just a little more, Ms.
8 Chalbeck to explain a little bit more about the history
9 of this symbolism. Can you do that?

10 MS. CHALBECK: Yes, of course. Your Honor,
11 as you can see at the top banner of this flag are the
12 letters NSKK, I'm not going to attempt to pronounce it
13 in German, it stands for the National Social List Biker
14 Paramilitary Organization that was organized under the
15 SS. So this flag, we believe, goes to the mentality
16 that members of this group and this group at large has.
17 They fashion themselves to be a paramilitary like biker
18 organization. And in the same vein as individuals in
19 organizations that perpetrated atrocities during World
20 War II.

21 MR. TRIPI: In this same photograph, your
22 Honor, E-4, you can see in the bottom right there is a
23 sign that says "Big Brother is Watching You." Again, I
24 would argue that that goes to the organizational
25 consciousness of guilt, law enforcement consciousness.

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2 Organizations that are not involved in criminal activity
3 are not having that type of signage in their clubhouses.
4 I don't think you'll see that at your local Elks Lodge.
5 E-5 is just another close-up that shows you that they
6 have these parties. E-6 just generally shows you they
7 keep photographs of some of their history. Same with
8 E-7. As of 2021, they had been around in this area for
9 40 years. E-8 is advertisement for their annual Blues
10 Cruz. And featured on the upper left-hand side on our
11 screen is one of the events sponsors was Pharos
12 Gentlemen's Club.

13 Nine shows you more about their law
14 enforcement consciousness. They are not just concerned
15 about who might be cooperating against their club, they
16 are concerned about and monitoring other motorcycle
17 clubs. You might recall, although I don't believe you
18 were the magistrate judge, E-9 depicts the indictment
19 back in 2009 of the Chosen Few motorcycle club, and that
20 prosecution ended up being dismissed for a host of legal
21 reasons. But what is important here is that they've
22 kept that documentation for over a decade in their
23 clubhouse. They know who was charged, and that is,
24 again, not something that an organization that is not
25 engaged in criminal activity would be, I would submit,

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2 worried about. If you go to E-10, it's going to show
3 you some meeting minutes. And I started by referencing
4 their link to the Outlaws and their also tracking when
5 Taco Bowman's funeral, which was in March of 2019. So
6 if we look at entry number nine, if you could highlight
7 that for the Court. So that is not a Taco party, that
8 is Taco Bowman's funeral planned for that sat in March.
9 So it's another way they are going to honor the most
10 notorious motorcycle club leader of the 21st century.

11 E-11 is another section of their meeting
12 minutes. And in the Kingsmen case, we entered a lot of
13 these into evidence. Taco's funeral in Dayton. Again,
14 furthering this link between this support club of the
15 Outlaws, the Rare Breed and the Outlaws. E-12 shows you
16 the nexus to Pharos Gentlemen's Club. They have
17 mandatory meetings every week, and going to Pharos for
18 their annual party makes the to-do list. That was E-12.
19 E-13 is going to show you another reference to an
20 Outlaws party. Let's go to the second set of numbering
21 under one, "OL party in Olean, Saturday, three or four
22 from Buffalo going." So they are very big on
23 essentially reinforcing and forcing their members to
24 make sure they go and support the Outlaws. You live in
25 Buffalo, you live around Buffalo, doesn't matter, three

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2 or four people from Buffalo are going to Saturday to
3 Olean to support the Outlaws.

4 F-1 just shows you more of the poker chips.
5 I've already sort of proffered the importance of the
6 poker chips.

7 We'll go to G. I referenced this at our
8 initial appearance, your Honor. G-1 depicts a human
9 skull that was found in the clubhouse. We've confirmed
10 it's a real human skull and it's likely of native
11 American origin. We're waiting for the formal report.
12 If that proves accurate and even if we can't connect
13 this skull to a person given that we see there is no
14 teeth there, your Honor, teeth are missing, that is a
15 way that we often link back a skull fragment or a skull
16 to an actual person, there is likely no DNA because of
17 the age of it, so you have a real skull with no teeth
18 confirmed to be real, likely native American origin.
19 Even if for argument sake this person wasn't murdered,
20 it is unlawful to possess a native American skull off of
21 native American soil. It was on the floor in the
22 Buffalo RBMC clubhouse.

23 G -2 is another view of the skull. You can
24 see there are no teeth left in the upper jaw portion.
25 G-3 shows how it was. So you would think, okay, it's in

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2 some display case, it's an artifact. No, it's on the
3 floor in the corner of a room.

4 When we move onto the H series, I'm going to
5 go relatively quickly to that. They had a reference to
6 certain people or certain organizations that are law
7 enforcement assigned. H-1, H-2, H-3, they had a
8 Complaint regarding an individual, we have not yet
9 looked into why they had this Complaint in Mr. Roncone's
10 home where these last three items were located. We'll
11 go to H-4, that is a continuation of that Complaint.
12 And then H-5, this should be concerning as it relates to
13 potential risk, your Honor. Mr. Roncone had a driver's
14 license and social security card of a person who is not
15 his name based out of Florida. So that is another thing
16 that agents will have to follow up. We just don't have
17 more for the Court at this time. But I don't have
18 anybody else's Social Security card and license in my
19 wallet. I assume the Court doesn't have it in its house
20 either, so it's another factor that is concerning
21 vis-a-vis flight risk and what is really going on here,
22 what are they using different social security numbers to
23 engage in certain activity. Certainly something we need
24 to look into. Certainly part of this defendant's
25 history and characteristics, now that we proffered them.

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2 I-1, this is more information that was in
3 the clubhouse, the Chosen Few indictment. I-2 appears
4 to be a press release regarding that raid of the Chosen
5 Few. I-3, more meeting minutes from the clubhouse. So
6 now we're at the point in time where the investigation
7 of Pharos has ramped up, and now at a meeting, you can
8 see the shift. Before we're going to the Pharos annual
9 party. Now, I believe this is 2019 or maybe early 2020,
10 I have to double check, Pharos is now been raided and
11 now there is a shift. No patches. They are still going
12 to go there now, don't wear your patches or club shirts.
13 Blend in with the normal people.

14 I-4, it's another entry looking, yeah,
15 eleven, no patches, club shirts at Pharos. Again, not
16 go there, just don't wear your stuff to identify you as
17 Rare Breed. I-5, going back to I-5. Now Pharos is
18 under investigation, there was a lot of media attention.

19 MAGISTRATE JUDGE SCHROEDER: You have I-4.

20 MR. TRIPI: We're removing it. I was ahead
21 of my paralegal on that one. I'm moving quickly.

22 I-5 is, you see number four, "tighten your
23 shit up." So federal investigations are progressing
24 now, federal investigations are hitting the media. I
25 submit to your Honor, this is an official directive in

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2 the RBMC meeting to be aware and to keep tight. In
3 other words, keep close your criminal activity, make
4 sure it's not being easily discerned.

5 I-6 entry No. 7 indicates they are going to
6 an event "Roar on the Shore," but they are not going to
7 wear their colors there because there is possible
8 issues. I would submit possible issues represents
9 potential conflict with another biker gang. When there
10 is -- just stepping back for a moment. When there are
11 potential issues or potential violence that may occur or
12 criminal acts of violence, one of the big things these
13 clubs do, your Honor, is they don't wear their vests.
14 They don't wear their patch. They don't wear colors
15 that would readily signify that this was our group that
16 perpetrated this event. It's a law enforcement
17 consciousness, it's dangerousness. In my prior
18 prosecution of a very similar club, when they did
19 shootings, they did not wear their vests. When they
20 were being sent to do acts of violence, they did not
21 wear their vests.

22 I-7, yet another entry in another meeting to
23 "keep your shit tight," now this time with four
24 explanation points. Again, this is along the same time
25 where the Pharos investigation is progressing. "Keep

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2 your shit tight!!!!"

3 I-8, in that same vein, now we have a
4 quarterly summary meeting note from May 28, 2022. So by
5 this point in time, Mr. Gerace is indicted, that case is
6 progressing, but Mr. Gerace is not yet detained, but
7 that case is progressing to trial. There has been a lot
8 of media coverage, so now you see they are mandating
9 attend a meeting every two months for lifetime members
10 to retain their status. So lifetime members, usually
11 older, they can go to less events. Number three, I
12 would like you focus in on "be mindful of who is around
13 you when talking." Again, law enforcement
14 consciousness, cooperator consciousness, a consciousness
15 of guilt of their own criminal activity as a group such
16 that they have to broadcast this to their whole
17 organization during a meeting. I-9, you're going to see
18 an entry, I just have to find it, entry number 6.
19 Again, another reminder, still no patches at Pharos, so
20 still don't wear your stuff, identifying yourself as
21 Rare Breed when you go to Pharos. I-10, another entry
22 to "keep your shit tight." It's entry number 11.

23 I-11, if you look at 10 and 11, they are
24 talking about getting more serious about their security
25 and being aware of their surroundings at all times. And

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2 being aware of their security goes back to the mind-set
3 of they always think this is a paramilitary group who
4 always thinks they are on the verge of some conflict and
5 may well be. I-12, now there is a shift. Now entry No.
6 16 is "stay away from Pharos." Now more information has
7 come out regarding Pharos, things are progressing and so
8 now the shift is made. Let's stay away from that place,
9 too hot.

10 I-13 shows that they monitor activity and
11 press regarding other motorcycle clubs. I-13 relates to
12 a fight between motorcycle groups. I-14 talks about in
13 the middle of melee of cracking baseball bats, flicking
14 switch blades between rival biker gangs, the Hell's
15 Angels shot and killed a member of the Pagans in Nassau
16 County, Long Island. If they weren't involved in a
17 larger criminal syndicate that was worried about these
18 types of things on a national level, why would they care
19 about a melee lay between Hell's Angels and Pagans in
20 Long Island? That is I-14.

21 I-15, they are worried about what is going
22 on with the Hell's Angels in California. That is what
23 that news article is about. I-16, Hell's Angels
24 wounded. Hell's Angels are a rival of the Outlaws.
25 Hell's Angels wounded. And this is a story from Concord

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2 New Hampshire. I-17, we're back to meeting minutes and
3 there is a directive to spend more time in Wellsville.
4 And also to "clean up your shit." I would submit "clean
5 up your shit" means don't leave evidence behind in the
6 clubhouse. Clean it up when you're done partying, using
7 drugs, whatever. That is I-17.

8 I-18 has a reference to Roncone getting a
9 local scrap guy. You see at the top, "Cone" is one of
10 the people at this meeting so that is his nickname,
11 "Cone." And then four says, "Talking to local scrap
12 guy, Cone will have answers. He is in charge of getting
13 a local scrap guy in relation to clean up at their
14 Wellsville clubhouse," it looks like. And then on I-19,
15 I-19, you're going to see who that scrap guy was. Entry
16 four "talked with Howie to get rid of scrap." So,
17 again, Howie Hinkle is the person who is charged
18 separately with having over 100 plant marijuana grow
19 I've indicated to you our information is that Hinkle has
20 supplied Roncone with marijuana and these are some of
21 the same people who were involved in the constellation
22 of events that surround the 48, 72 hours where Ms. Quinn
23 died, part of the search that this Court authorized. So
24 it shows you that Howie has a nexus to Rare Breed and
25 has a nexus to Roncone and a nexus to the Wellsville

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2 chapter.

3 I-20, there is a reminder to only support
4 those who support us. Also says, "The Olean party was a
5 good time, Cone went." We know from prior meeting
6 minutes that the Outlaws have parties in Olean. I-21,
7 yet another meeting minute reminder "keep your shit
8 extra tight." I would, again, argue that is
9 consciousness of guilt of larger more complex criminal
10 activity. I-22, you can see this is November 8th, so
11 we've now done search warrants in Wellsville area in
12 August, October; October 24th, I believe, was the last
13 set of warrants in Wellsville. By November 8th, this
14 defendant Cone is at a meeting with others and now they
15 are suspending the Wellsville chapter clubhouse for the
16 time being. That is entry number 10. And then entry
17 number 11 tells us Cone is moving to be the VP of the
18 Buffalo clubhouse until they resume operations,
19 essentially, in Wellsville. And if we go to I-22, we
20 see another reference to suspending the Wellsville
21 chapter. That is entry 10. And on nine, you can see
22 the BBs, how they use the racist white supremacist SS in
23 the way they use to write that name. Again, that is an
24 ideology, your Honor, I'm sure it's First Amendment
25 protected, but that ideology also means something

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2 hateful. And that ideology also is something this Court
3 should consider when it assesses the group and this
4 individual's dangerousness.

5 I-23, there is an individual, Damon, voted
6 out bad. That means Damon is going to be in some
7 trouble. Damon could be in trouble, particularly if
8 people in RBMC not talk to Damon or associate with
9 Damon, members of the RBMC could be beat or worse. The
10 people who were murdered in the Kingsmen case were
11 Kingsmen members who violated an order that other people
12 were out bad, they were executed.

13 Now I'd like to take you to the J series, so
14 now we're going to be in the Wellsville clubhouse and
15 these guns and ammunition were found in a trailer with
16 other of Mr. Roncone's personal effects to include, I
17 don't know if I pulled a photo of it, but his Covid
18 vaccination card was in there and his credit card with
19 his name was on there. So these firearms are under his
20 control. These are his firearms. And you see it's made
21 safe for the purposes of the photo, but you see an
22 assault-style looking weapon capable of high capacity
23 magazines under J-1. We have a different one,
24 similarly, again, these have not been analyzed by a
25 firearms expert yet, so your question to me earlier,

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2 your Honor, I don't know if these have been modified to
3 become fully automatic at this point as I stand here in
4 front of you today. But certainly, even if they haven't
5 been modified to be fully automatic, a semi-automatic
6 firearm capable of having high capacity rounds can do a
7 lot of damage. Many of these mass shootings you see
8 around the country, they are not fully automatic.

9 MAGISTRATE JUDGE SCHROEDER: They are not
10 illegal.

11 MR. TRIPI: Sure, sure, I understand that.
12 But I was sort of harkening back to a prior court
13 appearance where you made reference to these style of
14 firearms and we do have some of those. You see there is
15 plenty of magazines that can be filled with a whole
16 bunch of ammunition. If you go to J-3. A whole bunch
17 of magazines that can fit these guns. And then J-4 will
18 show you there are plenty of ammunition to go in the
19 magazines. And I'm going to focus in on in the 612
20 canister. There are three white boxes there. I'll show
21 you that in more detail. We'll pull one out. That is
22 federal law enforcement ammunition that is not for
23 resale. In other words, somehow, some way, Mr. Roncone
24 acquired federal ammunition from Homeland Security that
25 he is not supposed to have. I had Homeland Security

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2 look into this exact batch. And that organization sold
3 it to another federal agency, the United States Marshal
4 Service. That is as far as we've made it. This federal
5 ammunition should not be in civilian's hands. He
6 shouldn't have it.

7 MAGISTRATE JUDGE SCHROEDER: Is that a
8 crime?

9 MR. TRIPI: It's a crime for whoever got it
10 to him.

11 MAGISTRATE JUDGE SCHROEDER: No, a crime for
12 him to have it, its possession, per se.

13 MR. TRIPI: I'm not focused on that.

14 MAGISTRATE JUDGE SCHROEDER: No, I
15 understand.

16 MR. TRIPI: The import of that is access to
17 people or entities that could disadvantage others. And
18 if he is getting federal ammunition, that should concern
19 all of us. That is dangerous and that is the problem.

20 MAGISTRATE JUDGE SCHROEDER: But the concern
21 would be do we have somebody in the federal agency that
22 is doing this.

23 MR. TRIPI: It takes two to tango, correct.

24 MAGISTRATE JUDGE SCHROEDER: It would seem
25 to me, the main concern is if there is someone in the

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2 federal agency that is doing it, that is really
3 disconcerting.

4 MR. TRIPI: Of course. And we've charged a
5 DEA agent in a companion case, right?

6 MAGISTRATE JUDGE SCHROEDER: Mr.
7 Bongiovanni.

8 MR. TRIPI: Right. This is the whole
9 context. We're following the facts to the logical
10 conclusion. Like this tampering down stream, let's go
11 back to the beginning. It started with a corrupt
12 federal agent helping allegedly organized crime groups
13 and now here we are today in 2023 with federal
14 ammunition in a gang member's RV.

15 J-6six shows you that there is a number of
16 rounds that are still in one of the boxes that were
17 sampled. J-7 is a close-up of serial numbers for one of
18 those guns. J-8, same thing. J-9, again, focusing on
19 the serial numbers, are traces that need to be done on
20 the guns and an analysis of those serial numbers. I'm
21 going to breeze through these.

22 J-10, J-11, different types of ammunition.
23 It's showing you the head stamps there. K-1, again,
24 shows you that there is, despite all of the references
25 to "keep your shit tight, keep your shit tight, clean

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2 up," still there was evidence of use of marijuana and
3 paraphernalia at that clubhouse. Imagine what it was
4 like before it was cleaned up and before operations were
5 suspended.

6 K-2 is another photo of those items. And
7 L-1, we did pull some of the photos related to Mr.
8 Roncone's personal effects linking him to those firearms
9 and ammunition. One of them is going to be his
10 vaccination card, DMV documents. If we go to L-2, it's
11 a close-up of his New York State DMV interim license,
12 paper license, in the name of Michael Roncone. L -3 has
13 a debit card, a credit union card, and his vaccination
14 card, so linking him to the unmistakable conclusion that
15 he has control of the firearms and ammunition in that
16 location. And I just would like to put a caveat out
17 there, Judge, it's been linked to the United States
18 Marshal Service. I don't know if that is in Buffalo, we
19 don't know yet. I don't want to disparage my friends at
20 the United States Marshal Service in Buffalo, New York.
21 But it is important to know it is federal law
22 enforcement ammunition that shouldn't be, as far as I
23 understand it, in Mr. Roncone's possession. So if you
24 go back and you look at the history and characteristics
25 of the offender, the nature and circumstances of the

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2 danger he poses, and particularly not only his
3 individualized access to firearms, individual use of
4 rings, that ability as a de facto brass knuckle,
5 monitoring of other cases in other clubs, as well as the
6 nexus to Pharos Gentlemen's Club, as well as the
7 information I've proffered about his own cocaine
8 distribution, as well as to the volume of firearms that
9 we recovered and his long-standing tenure as a key
10 figure in this organization that is under, now they
11 know, an investigation related to the events surrounding
12 the death of a federal witness, his flight risk is high,
13 his danger to the community is high, the risk of further
14 obstruction if he were to be out and about with his
15 colleagues while we're conducting this serious
16 investigation is very high. For all of these reasons,
17 we ask this Court to detain him until further
18 proceedings on this case. Thank you.

19 MAGISTRATE JUDGE SCHROEDER: Mr. Towey.

20 MR. TOWEY: Good morning, your Honor. Brian
21 Towey on behalf of Mr. Roncone. I'm standing in of
22 counsel this morning for Paul Dell, who Mr. Roncone
23 retained. Your Honor, the government did just put forth
24 quite a proffer.

25 MR. TRIPI: Judge, I'm sorry to interrupt.

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2 One housekeeping, I'm really sorry, for one housekeeping
3 purpose. Can you have Mr. Roncone acknowledge that he
4 would like to go forward. Mr. Dell is not here. Mr.
5 Dell is who he has retained, just to have confirmation
6 on the record from Mr. Roncone.

7 MAGISTRATE JUDGE SCHROEDER: Mr. Roncone?

8 THE DEFENDANT: I'd like to go forward, your
9 Honor.

10 MR. TRIPI: Thank you, your Honor. Sorry to
11 interrupt.

12 MAGISTRATE JUDGE SCHROEDER: And that is
13 with Mr. Towey?

14 THE DEFENDANT: Yes, your Honor.

15 MAGISTRATE JUDGE SCHROEDER: All right.

16 MR. TRIPI: Thank you, I'm sorry.

17 MR. TOWEY: Thank you, Judge. But, that
18 story is what it is, it's a story. Most of the
19 allegations that we've talked about here this morning
20 haven't resulted in criminal charges. Most of the
21 proffer isn't related to the charges that have been
22 brought here today and that have been filed. It appears
23 Mr. Roncone allegedly possessed a number of firearms.
24 As your Honor pointed out and asked, none of these
25 firearms are per se illegal to possess. It's my

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2 understanding that the possession of these firearms is
3 not a crime but for the allegation that he is a drug
4 user. And this allegation is based on this trace amount
5 of cocaine, a small amount of marijuana that your Honor
6 saw in some of those photographs. As your Honor knows,
7 the possession of marijuana in New York State is not
8 even illegal.

9 MAGISTRATE JUDGE SCHROEDER: But it's still
10 a federal crime.

11 MR. TOWEY: Understood, your Honor. Just
12 pointing that out. But as far as all of the other
13 uncharged allegations, your Honor knows more about this
14 case than I do, more about this case than probably Mr.
15 Dell does. You sat through many of the detention
16 hearings, signed the search warrants, but your Honor has
17 also reviewed the search warrants or the search warrant
18 inventories in this case. It doesn't appear that the
19 government found any evidence that they were really
20 looking for. They didn't -- essentially what we have
21 here is a 42-year-old individual, no criminal record,
22 has lived in Western New York for his entire life. He
23 is employed as a construction worker. He went out, he
24 retained his own attorney. And, your Honor, if he is
25 even convicted, he doesn't face a significant period of

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2 incarceration relative to most defendants in this -- in
3 this building. As a matter of fact, there is no
4 mandatory minimum on the charges that he is facing. It
5 isn't a reason that the United States, the Assistant
6 United States Attorney wants Mr. Roncone to remain in
7 while they continue to investigate these uncharged
8 allegations. That is not a reason to remand Mr.
9 Roncone.

10 As was pointed out, Mr. Roncone's father is
11 here. He does live with his father. His father is
12 willing to put up property with respect to Mr. Roncone's
13 release. I don't know if your Honor is aware, but I'm
14 sure you have, there was a pretrial services report.
15 The Pretrial Services Report recommended Mr. Roncone's
16 release. And, your Honor, we'd respectfully request
17 that you adhere to the recommendation of probation and
18 release Mr. Roncone with conditions as set forth in the
19 report. Otherwise, I have nothing further, your Honor.

20 MAGISTRATE JUDGE SCHROEDER: Mr. Tripi,
21 considering the criminal history of the defendant or
22 lack thereof, at least as reflected in the Pretrial
23 Services Report, and with specific focus on the charge
24 that he is presently facing in the amended Complaint,
25 namely a violation of Title 18 of the U.S.C. Section

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2 922(g)(3), and the application of the Federal Sentencing
3 Guidelines, what type of sentence would he be looking at
4 if convicted.

5 MR. TRIPI: Your Honor, I believe as to a
6 related defendant who had 16 firearms, we calculated 41
7 to 51 months. This defendant had 29 firearms, so
8 without having the Guidelines Manual in front of me, and
9 I should have calculated, Judge, anticipating this
10 question, I am going to say, ballpark, 41 to 51 months,
11 could be a little bit higher, three years or more
12 wouldn't be beyond the realm of realistic in terms of a
13 sentence.

14 MAGISTRATE JUDGE SCHROEDER: It's been a
15 while, but help me out, in the back of my mind, I recall
16 reading case law from the Second Circuit Court of
17 Appeals about it's not the quantity of weapons in
18 determining the charge and the end result of the charge
19 and the sentence if it's a continuing act of possession
20 of a number of weapons. The charge being, you're just
21 not entitled to possess one weapon or 10 weapons if you
22 are a drug user.

23 MR. TRIPI: And that is correct, your Honor.
24 That is my --

25 MAGISTRATE JUDGE SCHROEDER: So the focus of

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2 the charge being a drug user.

3 MR. TRIPI: Yes. The number of guns, if
4 this were charged, there would not be 29 counts, it
5 would be one count listing 29 firearms. The number of
6 firearms comes into play when you're doing the
7 Guidelines calculations as to what the potential federal
8 sentence or recommended federal sentence should be, but
9 it does not impact the charge if that makes sense.

10 THE COURT: Once again, my focus in
11 determining the government's motion is on the charge
12 that the defendant presently faces. And that is the
13 charge in the amended Criminal Complaint that the
14 defendant did knowingly possess firearms while being an
15 unlawful user of controlled substances in violation of
16 Title 18 U.S.C. Section 922(g)(3). Now I've heard a
17 great deal of representations and submission of
18 materials in the government's proffer about motorcycle
19 clubs, patches, signs and other materials, but I heard
20 very little about this so-called drug usage of this
21 defendant. And I don't know if it's drug usage of
22 marijuana and what quantity, drug usage of cocaine and
23 what quantity, how long ago was there drug usage, which,
24 to me, is what directly relates to the charge that he
25 faces. I've also heard about and seen exhibits

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indicating how well aware, according to the government, these motorcycle organizations are and the members of those motorcycle organizations are of federal involvement and federal observations and investigation of these motorcycle clubs and these individuals. So much so that there were numerous references to minutes or notes kept by the motorcycle clubs about keeping their stuff tight or being careful when talking, et cetera. Well, the other side of that coin is if these people are so aware of it and this is the way they are conducting themselves, they know they are under observation and investigation. That works to limit any further type of alleged criminal activity at least while things are pending. The other common sense concern that I have is that all of this has now been presented out in the open, these relationships, and these activities and these possession of weapons and different clubs and patches, et cetera, locking up one individual, namely the defendant, doesn't in any way eliminate the so-called risk that the government is advocating exists, especially since it's a military-type organization or multiple organizations who live by these different codes that the government has put forth. And in viewing that, I have to view it in the context of the constitutional

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2 right of this defendant, like any criminal defendant to
3 be considered bailable, not only in the Bail Reform Act,
4 but in the Constitution of the United States.

5 This defendant apparently does not have what
6 I would call a shocking criminal record. And I'm
7 referring once again to the Pretrial Services Report
8 wherein it is stated, quote, "New York State and FBI
9 criminal record checks were conducted which revealed no
10 prior criminal history for this defendant." I've also
11 heard nothing to indicate that this defendant is a
12 person that would be personally involved in the
13 committing of violent acts if he is out on bail.
14 Especially based on the examination and investigation
15 that has been conducted to this point, as to all of the
16 activities of the defendant, including the searches of
17 his home, his place in Wellsville and the evidence that
18 has been reflected in the photographs. And in viewing
19 everything in their totality with particular emphasis on
20 what I've iterated in the form of the exposure that has
21 been brought about by the government, it appears to me
22 that it would be intellectually contradictory, if not
23 intellectually improper for me to conclude there are no
24 terms and conditions that I could impose that would
25 reasonably assure the appearance of the defendant at any

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2 proceedings, once again, in the context of the charge he
3 presently faces and in the context of the lack of a
4 criminal record and what he might face with the
5 application of the Federal Sentencing Guidelines if he
6 were convicted of this charge to conclude he is a flight
7 risk. We have electronic monitoring using GPS and all
8 kinds of other high tech today that is available to the
9 U.S. Probation office that certainly will be able to
10 track the whereabouts of this defendant. We can have
11 the defendant surrender any passports, enhanced driver's
12 licenses or any other type of documentation that would
13 authorize international travel. I can impose a bail in
14 a monetary amount that it's been represented that his
15 father would be willing to co-sign for using real
16 property. And I'm assuming that the government is going
17 to continue to observe and investigate this entire
18 matter, this entire motorcycle organization or
19 organizations so that the risk of flight and the risk of
20 somebody doing something that is going to constitute
21 danger is substantially reduced, at least as to this
22 defendant, and that is all I'm concerned with, the
23 defendant Michael Roncone, are there terms and
24 conditions that I can impose that will reasonably assure
25 his appearance at any or continuing proceedings and

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2 minimize his ability to be a danger to other persons or
3 members of the community. If I'm going to be honest, I
4 conclude there are.

5 The final concern that I have is, I'm not
6 minimizing, by any means, the concern the government has
7 expressed as far as what is happening out there in this
8 society of motorcycle gangs. The violence that we know
9 does occur. I think back to a few years back, and I was
10 assuming that the prosecutor was referring to when there
11 was an outbreak of the shootout at the Lancaster
12 Speedway between two different motorcycle clubs. I also
13 can take judicial notice of the trials that occurred
14 with the killing of members of different motorcycle
15 clubs, I think it was the Kingsmen in Tonawanda or North
16 Tonawanda. So we know these things happen.

17 And I also understand the concern, even
18 though it might be first amendment protected material,
19 the seed of dangerousness that some of that stuff has
20 Swastikas Nazi ideology, and the history that we've
21 learned back in the 30s and the 40s as to what the
22 ideology does and what it results in. But, once again,
23 that is something that has been proffered on behalf of
24 an organization and members of an organization, but
25 doesn't relate directly to this defendant in the sense

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2 of flight and dangerousness. Is it a crime to belong to
3 an organization? I know of no finding of guilt as to
4 this motorcycle club as an organization. I suspect that
5 maybe they are even incorporated. I'm not sure, but if
6 they have a clubhouse and have parties and alcohol is
7 perhaps sold, they may even be state licensing things
8 that are in existence, which would, once again, indicate
9 a legitimacy of an organization as opposed to a criminal
10 conclusion.

11 Lastly, I don't like the concept, and I
12 think we have an obligation to always see that the
13 concept does not become adopted under our Constitution
14 and that is guilt by association. Just because someone
15 belongs to an organization that goes to a particular
16 place of business for either partying or meetings or
17 whatever and has insignias or patches or whatever, we
18 have organizations throughout our country beginning with
19 the Boy Scouts, beginning with church organizations,
20 beginning with educational institutions, beginning with
21 professional sports, everybody has a banner or a patch
22 or a symbol that displays their organization and what
23 their organization stands for and what their principles
24 are, et cetera. And if you're going to say somebody
25 belongs to an organization that not only has these

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2 identifying patches but they are bad people. And,
3 therefore, you're a bad person, I think we're in big
4 trouble if we adopt that.

5 So I come back to the very limited, and I
6 emphasize limited, focus of the defendant being charged
7 with a violation of Title 18 U.S.C. Section 922(g)(3),
8 and take into account everything that has been proffered
9 by the government, all that has been proffered on behalf
10 of the defendant, all that is set forth in the Pretrial
11 Services Report, and conclude that there are terms and
12 conditions that I can impose that will assure reasonably
13 the appearance of the defendant at future proceedings,
14 and that will assure the members of the public will be
15 reasonably protected. And those conditions are as
16 follows.

17 The defendant will be made subject to the
18 supervision and authority of the United States Probation
19 Office. And what that means, Mr. Roncone, that you must
20 obey and carry out and follow through with every
21 reasonable directive given to you by a representative of
22 that office. Should you fail to do that, that can
23 result in your bail being revoked and your being locked
24 up and kept locked up until this matter is concluded.

25 The defendant will also be required to

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2 submit to electronic monitoring. And the form of that
3 monitoring will be left at the discretion of the
4 probation, such as, but not limited to, GPS monitoring
5 or whatever will give the broadest type of coverage and
6 the defendant will be subjected to that monitoring on
7 the 24-hour basis. The defendant will also be required
8 to post bail either by way of a bail bond, cash or real
9 property having an unencumbered value of \$100,000.

10 The defendant's travel is hereby restricted
11 or limited to the Western District of New York. That
12 means no traveling outside of the Western District of
13 New York. If, however, there is a request to undertake
14 such travel, that request must be made to the United
15 States Probation Office. And as part of that request,
16 you must submit a complete itinerary showing the purpose
17 of the trip, when it is to take place, where it is to
18 be, with whom you are going to meet, when you expect to
19 return and any other information the probation office
20 asks of you in that regard or context before such travel
21 can be undertaken. And there must be approval for such
22 travel once that information has been obtained.

23 I don't know whether the government seized
24 all of those weapons that have been described, but if
25 you have possession of or access to any other weapons, I

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2 direct you to disclose that to your attorney.

3 And, Mr. Towey, I direct you as an officer
4 of the court and Mr. Dell as an officer of the court to
5 then make arrangements with the government's attorney
6 for the surrender of those weapons and their safe
7 keeping until this matter has been completed.

8 MR. TOWEY: Understood, your Honor.

9 THE COURT: You will also be required to
10 submit, to report any contact that you have with any law
11 enforcement personnel for any reason whatsoever, be it
12 something as minor as a vehicle and traffic violation or
13 for any other reason. And that report must be made to
14 the United States Probation Office within 72 hours of
15 when that contact occurred. You are hereby prohibited
16 from having in your possession and you are hereby
17 prohibited from using any narcotic drug or substance
18 even if it's considered legal under the laws of the
19 United States unless that legal drug or substance is in
20 the form of medicine that has been prescribed for you
21 personally by a dually licensed physician, licensed by
22 the State of New York, to treat you personally for a
23 medical condition. So even though it might be a legal
24 drug or substance, if it's not in the form of medicine
25 prescribed to you by a doctor, you're not to have it in

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2 your possession. And you're not to use it. Do you
3 understand?

4 THE DEFENDANT: Yes, your Honor.

5 MAGISTRATE JUDGE SCHROEDER: Needless to
6 say, but, nevertheless necessary to say, you're not to
7 have in your possession and you're not to use any
8 illegal drug or substance under the laws of the United
9 States. So even though it's been referenced, the State
10 of New York allows for the use of personal use of
11 marijuana, federal law does not. So no possession of or
12 use of any illegal drug or substance under the laws of
13 the United States.

14 You will also be required to submit to drug
15 and/or alcohol testing because I'm also prohibiting any
16 drinking. And as part of that, you will be required to
17 submit to drug and/or alcohol testing and to contribute
18 toward the cost of that testing as determined and
19 directed by the United States Probation Office, and you
20 are prohibited from interfering with or obstructing in
21 any way the accuracy of any testing carried out.

22 You are to surrender any passport or
23 enhanced driver's license or any other form of
24 documentation that allows you to travel internationally.
25 And while this matter is pending, you are not to seek

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2 renewal of any passports, enhanced driver's license or
3 any other form of documentation. And you are not to
4 apply for any new passports or driver's licenses,
5 enhanced driver's licenses or other forms of travel
6 documentation.

7 Mr. Probation Officer?

8 PROBATION: Judge, in addition to those
9 conditions, we would just respectfully request that he
10 surrender any pistol permits to the appropriate
11 authorities.

12 THE COURT: Surrender what?

13 PROBATION: Surrender any pistol permits.

14 MAGISTRATE JUDGE SCHROEDER: Yes, it had
15 been represented that you have a pistol permit that is
16 to be surrendered to the appropriate authorities. And
17 while this matter is pending, you're not to apply for or
18 seek removal for any pistol permits or any other type of
19 permits for weapons.

20 PROBATION: Judge, we also ask that he
21 remain at a verifiable address as approved by pretrial
22 services.

23 MAGISTRATE JUDGE SCHROEDER: Yes, I'll make
24 that a condition as well.

25 PROBATION: That he avoid all contact with

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2 co-defendants and defendants in related cases unless
3 approved by pretrial services.

4 MAGISTRATE JUDGE SCHROEDER: Yes, I make
5 that a condition. And if there is something that you
6 think needs to be done in the way of contacting those
7 people, you do that through your attorney. Your
8 attorney will address those things.

9 PROBATION: Judge, we would also ask that he
10 be subject to a curfew just based on his -- what he
11 reported.

12 MAGISTRATE JUDGE SCHROEDER: You can do that
13 because I made him subject to the supervision of the
14 U.S. Probation office, you have that discretion.

15 PROBATION: Thank you, Judge. We would also
16 ask that he refrain from obstructing or attempting to
17 obstruct or tamper with the efficiency and accuracy of
18 the electronic monitoring.

19 MAGISTRATE JUDGE SCHROEDER: Yes. I make
20 that a condition. And also, you are to contribute
21 toward the cost of that service in the form of a
22 co-payment in the amount of which will be determined and
23 directed by the U.S. Probation office.

24 PROBATION: I believe that's it, Judge.
25 Thank you.

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2 MAGISTRATE JUDGE SCHROEDER: All right.

3 MR. TRIPI: Judge, if I may, just following
4 up on probation.

5 MAGISTRATE JUDGE SCHROEDER: Certainly.

6 MR. TRIPI: There is two conditions that you
7 ordered. One is a bail bond unencumbered with a value
8 of \$100,000. There has been an offer or indication that
9 that will be secured by property put up by his father.
10 I ask the Court direct that the appropriate information
11 be submitted to the U.S. Attorney's Office. We
12 typically conduct that and we'll do it forthwith and in
13 good faith to do it quickly, but I ask you to direct
14 that defense provides that information, the appropriate
15 section of our office, will do a check into whether that
16 property has sufficient value and is unencumbered.

17 MAGISTRATE JUDGE SCHROEDER: Right. And I
18 was going to direct that at the end.

19 MR. TRIPI: And the second thing, in terms
20 of the electronic monitoring, by curfew, will probation,
21 much like with several other defendants who had similar
22 condition ordered, need time to inspect the site and
23 make sure it's set up for electronic monitoring?

24 MAGISTRATE JUDGE SCHROEDER: Right. I was
25 going to add that at the end.

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2 MR. TRIPI: And I have one thing, I'll wait
3 until the end.

4 MAGISTRATE JUDGE SCHROEDER: You have one
5 more thing but what?

6 MR. TRIPI: I'll wait until you're done.

7 MAGISTRATE JUDGE SCHROEDER: Upon the
8 completion of any inspection by the U.S. Probation
9 Office in verifying the residence that you will be
10 staying at and the approval of the probation office for
11 that residence and verification by the probation office
12 of the feasibility of that residence to effectuate the
13 electronic monitoring, and upon completion of, if real
14 property is to be posted to provide for the \$100,000
15 security, that property and the indicia of ownership
16 must first be supplied to the U.S. Attorney's Office so
17 as to allow that office to evaluate the true value of
18 the property free and clear of any encumbrances as
19 having a value of at least \$100,000.

20 And upon the surrender of that, any
21 passports or travel documents, as I previously
22 indicated. And upon the completion of any additional
23 processing by the U.S. Marshal Service and/or the
24 probation office, the defendant is then to be released
25 on bail subject to all of the terms and conditions as

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2 I've indicated, but the release will not take place
3 until the U.S. Attorney's Office has been provided with
4 the appropriate information to satisfy the \$100,000
5 value of the property, if property is what is used.

6 MR. TOWEY: Judge, just for clarity, that is
7 with respect to property if property is being posted, is
8 that correct, Joe?

9 MR. TRIPI: That's correct.

10 MAGISTRATE JUDGE SCHROEDER: As I
11 understand, the father's residence or home.

12 MR. TOWEY: I believe so.

13 MAGISTRATE JUDGE SCHROEDER: And so what
14 would be provided normally would be something that would
15 indicate ownership of that property, a deed. If there
16 is a mortgage, what the amount of the mortgage is and so
17 that can be deducted from the value of the premises.

18 MR. TOWEY: Understood.

19 MAGISTRATE JUDGE SCHROEDER: Because the
20 bottom line, value of the premises has to be an
21 unencumbered \$100,000 or more.

22 MR. TRIPI: And, your Honor, I assume he'll
23 also remain in custody while probation checks the --

24 MAGISTRATE JUDGE SCHROEDER: Yes, he will
25 not be released until these matters have been completed.

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2 MR. TRIPI: And then, Judge, I think this is
3 largely mooted by the conditions and the steps that need
4 to take place before the defendant can satisfy the
5 conditions, but, respectfully, given the proffer here, I
6 would ask for a 24-hour stay and I would like to, if I
7 may, just do a better job of articulating my reasons for
8 doing that than perhaps I did on the prior appearance.

9 MAGISTRATE JUDGE SCHROEDER: I'm not
10 criticizing how you did it at the prior appearance. And
11 I would anticipate the production of the real property
12 bail posting is going to take some time and the
13 probation office inspection is going to take some time,
14 so I'll grant that application.

15 MR. TRIPI: Okay. Thank you.

16 MAGISTRATE JUDGE SCHROEDER: Anything else?

17 MR. TRIPI: Nothing from me, your Honor.

18 MR. TOWEY: Nothing your Honor.

19 MAGISTRATE JUDGE SCHROEDER: Thank you
20 everyone.

21 MR. TOWEY: Thank you.

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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript
of the record to the best of my ability of proceedings
transcribed from the audio in the above-entitled matter.

S/ Karen J. Clark, RPR

Official Court Reporter